

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION FOR  
THE PURPOSE OF CONSIDERING:

APPLICATION OF MARATHON OIL PERMIAN,           CASE NOS. 20061,  
LLC FOR A SPACING UNIT AND COMPULSORY           20062  
POOLING, LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

November 16, 2018

Santa Fe, New Mexico

BEFORE:   WILLIAM V. JONES, CHIEF EXAMINER  
          DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, William V. Jones, Chief Examiner, and David K. Brooks, Legal Examiner, on Friday, November 16, 2018, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

REPORTED BY:   Mary C. Hankins, CCR, RPR  
                  New Mexico CCR #20  
                  Paul Baca Professional Court Reporters  
                  500 4th Street, Northwest, Suite 105  
                  Albuquerque, New Mexico 87102  
                  (505) 843-9241

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES

FOR APPLICANT MARATHON OIL PERMIAN, LLC:

JENNIFER L. BRADFUTE, ESQ.  
MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.  
500 4th Street, Northwest, Suite 1000  
Albuquerque, New Mexico 87102  
(505) 848-1800  
jlb@modrall.com

INDEX

	PAGE
Case Numbers 20061 and 20062 Called	3
Cases Presented by Affidavit	3
Proceedings Conclude	13
Certificate of Court Reporter	14

EXHIBITS OFFERED AND ADMITTED

Marathon Oil Permian, LLC Exhibit Numbers 1 through 3	8
--	---

1 (10:04 a.m.)

2 EXAMINER JONES: Let's call Case Numbers  
3 20061 and 20062. Both are styled application of  
4 Marathon Oil Permian, LLC for a spacing unit and  
5 compulsory pooling, Lea County, New Mexico.

6 Call for appearances.

7 MS. BRADFUTE: Mr. Examiner, Jennifer  
8 Bradfute on behalf of the Applicant.

9 EXAMINER JONES: Any other appearances?

10 MS. BRADFUTE: Mr. Examiner, Marathon has  
11 filed these two applications for its Queenie Federal Com  
12 20-32-15 wells. This application involves two 2nd Bone  
13 Spring wells, the 2H and the 3H, these applications  
14 together. And we've consolidated these matters together  
15 for hearing, and we would like to present these matters  
16 by affidavit.

17 EXAMINER BROOKS: Is this re-opened also?

18 MS. BRADFUTE: This is not re-opened, so  
19 these applications are being heard for the first time  
20 today.

21 EXAMINER BROOKS: Okay. Go ahead.

22 MS. BRADFUTE: Attached in the exhibit  
23 packet in front of you, for your convenience, is a copy  
24 of both of the applications at the front of the packet.

25 In Tab 1, attached as Exhibit 1, you'll see

1 an affidavit prepared by Marathon's landman, Travis  
2 Prewett. Mr. Prewett testified yesterday before the Oil  
3 Conservation Division, and his credentials were accepted  
4 and made a matter of record.

5 Mr. Prewett testifies that in Case 20061,  
6 Marathon is seeking an order from the Division pooling  
7 all uncommitted mineral interests in the Bone Spring  
8 Formation underlying the east half-east half of Sections  
9 10 and 15 in Township 20 South, Range 32 East in Lea  
10 County. And this proposed spacing unit is going to be  
11 dedicated to the 2H well.

12 In Case 20062, Marathon is seeking an order  
13 from the Division pooling all uncommitted mineral  
14 interests also within the Bone Spring Formation  
15 underlying the west half-east half of Sections 10 and  
16 15. And this spacing unit is going to be dedicated to  
17 the 3H well.

18 Mr. Prewett states within his affidavit  
19 that a plat outlining the unit and the different tracts  
20 in the unit is attached as Exhibit A, and the  
21 document -- the page following the tract for these wells  
22 contains a list of the parties that Marathon is seeking  
23 to pool. There is a list of uncommitted working  
24 interests. And there are no unleased mineral interests  
25 that are being pooled within the units. Also attached

1 to this is a list of overriding royalty interest owners  
2 within the area, and Marathon does seek to pool  
3 overriding royalty interest owners. It looks like there  
4 are about eight or so overrides within the area.

5 Attached to this affidavit is also a list  
6 of summary of attempted contacts that Mr. Prewett  
7 engaged in to try to obtain consent and joinder in the  
8 wells.

9 Attached to this affidavit is a C-102 for  
10 each of the wells and also a well-proposal letter for  
11 the wells that was sent out giving a separate election  
12 to each of the wells, as well as an AFE for each of the  
13 wells.

14 Mr. Prewett testifies that there are no  
15 depth severances within the Bone Spring Formation and  
16 that he conducted a diligent search of public records in  
17 the county where the wells are located, and he also  
18 conducted phone and computer searches to find contact  
19 information for the parties who were entitled to notice.

20 Mr. Prewett states that in his opinion  
21 Marathon has made a good-faith effort to obtain  
22 voluntary joinder of the working interests in the  
23 proposed wells. And he states that the producing  
24 intervals for both of the wells is going to be orthodox  
25 and that it's going to comply with the Division setback

1 requirements.

2 He confirms that the estimated costs for  
3 drilling the wells is comparable to costs to drill other  
4 wells to these lengths and these depths within this area  
5 of New Mexico, and he testifies that Marathon is seeking  
6 overhead and administrative rates of \$8,000 a month for  
7 drilling and \$800 a month for producing. He states that  
8 these rates are fair and reasonable and that they're  
9 comparable to the rates charged by other operators for  
10 wells drilled to these lengths and these depths within  
11 New Mexico.

12 These are two-mile wells. And something  
13 that we have noticed with two-mile wells is that people  
14 are moving to \$8,000 a month for drilling and \$800 a  
15 month for producing.

16 Marathon requests that these rates be  
17 adjusted periodically as provided for under the COPAS  
18 accounting procedure. And Mr. Prewett testifies that  
19 Marathon is requesting the maximum cost plus 200 percent  
20 risk charge to be assessed against any nonconsenting  
21 working interest owners. Mr. Prewett testifies that  
22 Marathon is asking to be designated as the operator, and  
23 that based on his opinion, he believes that the granting  
24 of this application is in the interest of conservation  
25 and the prevention of waste.

1                   Attached as Exhibit 2 in this packet is an  
2 affidavit prepared by a geologist, Ethan Perry.  
3 Mr. Perry's credentials as a geologist have been  
4 accepted and made part of the record.

5                   And attached to his affidavit are Exhibits  
6 A, B and C, which include a structure map, a cross  
7 section and a gross interval isochore of the 2nd Bone  
8 Spring Sand Formation.

9                   I'm not going to summarize these exhibits  
10 for you, but I did want to point out that Mr. Perry  
11 testifies in his affidavit that based on his study, he  
12 concludes that the horizontal spacing unit is justified  
13 from a geologic standpoint, that there are no structural  
14 impediments or faulting that's going to interfere with  
15 horizontal development and that it's his opinion that  
16 each quarter-quarter section of the unit is going to  
17 contribute more or less equally to production.

18                   Mr. Perry also testifies that the preferred  
19 wellbore orientation in this area is north to south, and  
20 he states that this is because the maximum horizontal  
21 stress orientation is more or less east-west.

22                   Attached as Exhibit 3 in this packet is a  
23 copy of an affidavit prepared by Marathon's attorney,  
24 Deana Bennett, and attached to this affidavit is  
25 confirmation of all of the mailings that went out to

1 notified affected parties. And there is a chart  
2 confirming which mailings were delivered. There appear  
3 to be three different mailings that were not delivered  
4 on this chart. We did try to track those undelivered  
5 mailings and included pages giving the transaction  
6 history from the post office for those mailings.  
7 Marathon also published notification in a newspaper of  
8 general circulation in Lea County, and an Affidavit of  
9 Publication which lists all of the parties entitled to  
10 notice by name is included in the last page of this  
11 exhibit.

12 With that, I'd like to tender Exhibits 1  
13 through 3 into the record and answer any questions that  
14 you may have.

15 EXAMINER JONES: Exhibits 1, 2 and 3 are  
16 admitted in both cases.

17 (Marathon Oil Permian, LLC Exhibit Numbers  
18 1 through 3 are offered and admitted into  
19 evidence.)

20 EXAMINER BROOKS: I had a question  
21 because -- I may be confused. But looking at Exhibit  
22 1A, the plat shown there appears to be a plat of the  
23 west half-east half, and then if you go over to Exhibit  
24 2B, that appears to be a C-102 for a well in the east  
25 half-east half. There is also in Exhibit 2C a plat of a

1 well in the west half-east half. But I don't see -- am  
2 I missing something?

3 MS. BRADFUTE: Yeah. So the pages  
4 sometimes stick together. Let's go to Tab A.

5 EXAMINER BROOKS: Okay. Tab A has got a  
6 page 1, which is the east half-east half.

7 MS. BRADFUTE: Yeah. That's the east  
8 half-east half.

9 And then if you turn to the next page --  
10 because there are two different spacing units at issue  
11 here, one for each of the cases.

12 EXAMINER BROOKS: Yeah.

13 MS. BRADFUTE: Turn to the next page, and  
14 that's the west half-east half spacing unit.

15 EXAMINER BROOKS: Well, the west half-east  
16 half was the one I was looking at, but I realized the  
17 tab is attached to the page that has the east half-east  
18 half, and that's why I was missing it.

19 MS. BRADFUTE: Yes.

20 EXAMINER BROOKS: Now, Tracts 1 and 2 are  
21 in the east half -- no. 1 and 2 -- there are Tracts 1  
22 and 2 in the east half-east half and Tracts 1 and 2 in  
23 the west half-east half, and they're different tracts.

24 MS. BRADFUTE: Yes. So because these are  
25 Bone Spring wells, based on the spacing requirements by

1 the Division, each of these wells had to be broken down  
2 into its own application, because they wanted to space  
3 these wells where they wouldn't qualify for the  
4 proximity tract provision.

5 EXAMINER BROOKS: Okay.

6 MS. BRADFUTE: So there is one application  
7 per spacing unit.

8 EXAMINER BROOKS: Okay. Now, where is the  
9 tract breakdown that follows the two plats?

10 MS. BRADFUTE: So the ownership -- so the  
11 tract breakdown -- the ownership in each of these tracts  
12 is the same. They don't give a tract breakdown by the  
13 tracts. They just give the list of the uncommitted  
14 working interest owners.

15 EXAMINER BROOKS: Okay. They also spelled  
16 Fasken wrong --

17 MS. BRADFUTE: Oh, I apologize for that.

18 EXAMINER BROOKS: -- but David Fasken is  
19 dead. That would have caused him great heartbreak.

20 MS. BRADFUTE: I'm sorry.

21 EXAMINER BROOKS: But he has been dead for  
22 a long time, and so he has more serious problems than --

23 EXAMINER JONES: Oh, it's E-N.

24 EXAMINER BROOKS: It's an E.

25 EXAMINER JONES: Well, I noticed that OXY,

1 in the handling, neither made an appearance in this  
2 case, or are they possible sign-ups?

3 MS. BRADFUTE: They are. I know Marathon  
4 has been working with OXY, but they obviously haven't  
5 committed yet. So --

6 EXAMINER JONES: Okay. And you're drilling  
7 from a drill island, looks like.

8 MS. BRADFUTE: Yes. Yes.

9 EXAMINER JONES: Okay. And still not --  
10 the wells are not permitted yet. So I assume the  
11 locations will be -- I'll just put down what you've got  
12 here as locations.

13 MS. BRADFUTE: Yes, please. Yeah.

14 EXAMINER JONES: And our system just shows  
15 40-acre -- 40-acre building blocks, and all of them are  
16 exactly 40s.

17 MS. BRADFUTE: I believe they are. I don't  
18 have any information saying they're less than 40.

19 EXAMINER JONES: Okay. I guess we can  
20 always say more or less.

21 MS. BRADFUTE: I think "more or less" is  
22 usually what we use.

23 EXAMINER JONES: Especially on federal.

24 EXAMINER BROOKS: Well, building blocks are  
25 authorized to be quarter-quarter sections. And actually

1 Mr. Brancard and I -- sometimes I disagree with him, but  
2 in this case, he was wiser than I was that he took out  
3 the 40 acres, because he said it didn't make any  
4 difference as long as they were quarter-quarter sections  
5 or equivalents. And I think he's clearly right.

6 MS. BRADFUTE: Yeah. It helps when you  
7 have those lots.

8 EXAMINER BROOKS: And if it said 40 acres,  
9 which constitutes a quarter-quarter section or an  
10 equivalent, then we'd have to decide which it means.

11 MS. BRADFUTE: Yes. Yes.

12 EXAMINER JONES: I like working with all  
13 these wizards.

14 EXAMINER BROOKS: Well, the law is pervaded  
15 by wizardry.

16 EXAMINER JONES: The newspaper notice was  
17 published ten days at least?

18 MS. BRADFUTE: Yes, I believe so. Yeah,  
19 November 2nd.

20 With that, we'd ask that these cases be  
21 taken under advisement, unless you have additional  
22 questions.

23 EXAMINER BROOKS: I have none.

24 EXAMINER JONES: Thank you very much.

25 Cases 20061 and 20062 will be taken under

1 advisement.

2 And that concludes today's hearings.

3 (Case Numbers 20061 and 20062 conclude,  
4 10:16 a.m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court  
6 Reporter, New Mexico Certified Court Reporter No. 20,  
7 and Registered Professional Reporter, do hereby certify  
8 that I reported the foregoing proceedings in  
9 stenographic shorthand and that the foregoing pages are  
10 a true and correct transcript of those proceedings that  
11 were reduced to printed form by me to the best of my  
12 ability.

13 I FURTHER CERTIFY that the Reporter's  
14 Record of the proceedings truly and accurately reflects  
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither  
17 employed by nor related to any of the parties or  
18 attorneys in this case and that I have no interest in  
19 the final disposition of this case.

20 DATED THIS 20th day of December 2018.

21

22

23 MARY C. HANKINS, CCR, RPR  
24 Certified Court Reporter  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2019  
Paul Baca Professional Court Reporters

25